

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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WILLIAM GARY ROBINSON,
(Prisoner ID 07A7145)

Plaintiff,

- against -

ANSWER

CV No.: 07-4846
Seybert, J.
Boyle, M.

PETER TROYAN,
Defendant.

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Defendant, **PETER TROYAN**, by his attorneys, THOMAS C. SLEDJESKI & ASSOCIATES, P.L.L.C., as and for his Answer to the Complaint of the Plaintiff, WILLIAM GARY ROBINSON, states herein:

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in the paragraph of the Plaintiff's Complaint designated "I. Previous Lawsuits", except admits that Peter Troyan is named as a Defendant.

2. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in the paragraph of the Plaintiff's Complaint designated "II . Place of Present Confinement".

3. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in the paragraph of the Plaintiff's Complaint designated "III . Parties", except admits that Peter Troyan is a Defendant.

4. Denies each and every allegation contained in the paragraph of Plaintiff's Complaint designated, "IV. Statement of Claim".

5. Denies each and every allegation contained in the paragraph of Plaintiff's Complaint designated, "V. Relief".

AS AND FOR THE FIRST AFFIRMATIVE DEFENSE

6. Service of the Summons and Complaint was not made upon the Defendant within one hundred twenty (120) days after filing of the Complaint in compliance with Federal Rules of Procedure Rule 4 (m).

AS AND FOR THE SECOND AFFIRMATIVE DEFENSE

7. Plaintiff failed to make service and does not have in personna jurisdiction over Defendant Peter Troyan.

AS AND FOR THE THIRD AFFIRMATIVE DEFENSE

8. Plaintiff has failed to state a cause of action upon which relief can be granted.

AS AND FOR THE FOURTH AFFIRMATIVE DEFENSE

9. Any damages which may have been sustained by the plaintiff were contributed to in whole or in part by the culpable conduct of the plaintiff pursuant to CPLR § 14 -a.

AS AND FOR THE FIFTH AFFIRMATIVE DEFENSE

10. If the Plaintiff sustained damages alleged, such damages occurred while the Plaintiff was engaged in an activity into which he entered, knowing the hazard, risk and danger of the activity and he assumed the risks incidental to and attending to such activity.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

11. The acts complained of by the Plaintiff, do not sound in Civil Rights violation.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

12. Plaintiff has not claimed the existence of a policy and/or procedure followed by the Defendant which violates guaranteed Constitutional Rights and which was the proximate cause

of the Constitutional Violations alleged by Plaintiff. Furthermore, Plaintiff has not alleged improper training on the part of the Defendant which was the proximate cause of the Constitutional Violations alleged by Plaintiff.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

13. The acts complained of occurred within the scope of the Defendant's official duties

and the Defendant had no knowledge that the acts were illegal and/or unconstitutional nor did said acts violate the Plaintiff's Federal and State rights at the time they were committed. The answering Defendant acted without malice and enjoyed a qualified immunity with regard to the performance of his duties.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

14. Plaintiff's Complaint should be dismissed since the claims against the answering Defendant are frivolous. Costs and attorney's fees should be awarded.

WHEREFORE, Defendant, **PETER TROYAN**, demands judgment dismissing the complain of the Plaintiff, **WILLIAM GARY ROBINSON**, together with costs and disbursements incurred in the defense of this action.

Dated: Riverhead, New York
March 20, 2008

Yours, etc.,

THOMAS C. SLEDJESKI (5263)
THOMAS C. SLEDJESKI & ASSOCIATES, P.L.L.C.
Attorneys for Defendant TROYAN
18 First Street, P. O. Box 479
Riverhead, New York 11901

(631) 727-1515

TO:

WILLIAM GARY ROBINSON
Prisoner ID # 07A7145
Sing Sing Correctional Facility
354 Hunter Street
Ossining, New York 10562-5498
914-941-0108
Via ECF and regular mail